

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION OF THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 07-16
Z.C. Case No. 07-16
(Consolidated Planned Unit Development – 2300 Pennsylvania Avenue, LLC)
January 31, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on November 29, 2007, to consider an application (“Application”) from 2300 Pennsylvania Avenue, LLC (the “Applicant”) for the consolidated review and approval of a planned unit development (“PUD”) for the property known as Lots 19, 20, 53, 54, 802, 803, 810, and 811 in Square 5560, located at 2300 Pennsylvania Avenue in southeast Washington, D.C., pursuant to Chapter 24 of the District of Columbia Municipal Regulations (“DCMR”) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

At a special public meeting on December 13, 2007, the Commission took proposed action by a vote of 5-0-0 to approve the Application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated December 28, 2007, found that the proposed PUD, would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it have an adverse impact on any federal interests.

The Commission took final action to approve the Application on January 31, 2008, by a vote of 4-0-1.

FINDINGS OF FACT

1. On May 11, 2007, the Applicant filed an application for the consolidated review and one-step approval of a PUD and a related amendment to the Zoning Map.
2. The project site consists of Lots 19, 20, 53, 54, 802, 803, 810, and 811 in Square 5560, and has an address of 2300 Pennsylvania Ave., S.E. (the “Property”). The Property is located in the Fairlawn neighborhood in Ward 8. The Property consists of approximately 31,500 square feet. The Property is located in the C-2-A Zone District.

3. The Property is owned by the following: Dr. Melvin D. Howard, II, D.V.M., owner of 2309 Pennsylvania Avenue, S.E. (Lot 811, Square 5560); E&L Auto Sales Inc., the owner of 2311-2313 Pennsylvania Avenue, S.E. (Lot 810, Square 5560); Francis C. Minni, Helen Patricia Mudd, and Robert G. Sherman, the owners of 2317-2323 Pennsylvania Avenue, S.E. (Lots 19, 20, 53, and 54, Square 5560); Asghar Kazemifar, Aghdas Kazemifar, Hossein Moghadam, and Habibeh Mahboobi Moghada, the owners of 2325 Pennsylvania Avenue, S.E. (Lot 802, Square 5560); and Renee Miller, Peggy Brooks Smith, Estate of Evelyn Peskin, and The Dan Chesivoir Trust, the owners of 2327 Pennsylvania Avenue, S.E. (Lot 803, Square 5560). The Applicant has entered into a contract with each of the referenced owners to purchase the Property and is authorized by such owners to prosecute the subject application.
5. At its July 9, 2007 public meeting, the Commission considered the Application but took no action to schedule it for a public hearing. The Commission requested that the Applicant consider a decrease in the height and density of the project and certain revisions to the design concept. In response to those comments, the Applicant submitted a revised application, together with revised plans, on July 23, 2007. The Application, as revised, withdrew the request for an amendment to the Zoning Map.
6. On July 30, 2007, the Commission approved the Application for a public hearing. The Commission also requested that the Applicant provide additional information on the following issues: 1) provide details regarding the articulation of the ground floor façade along Pennsylvania Avenue, S.E.; 2) revise the proposed brick colors; 3) provide renderings that show the building in the context of the neighborhood and neighboring properties; 4) take the Pennsylvania Avenue S.E. Corridor Plan into consideration in the development of the streetscape plan; 5) consider reducing the density of the proposed building; 6) provide further information concerning on-site storm water retention; and 7) provide further justification for proposed relief.
7. On September 11, 2007, the Applicant submitted supplemental materials, including revised development plans and the transportation analysis report for the proposed project.
8. The Commission held a public hearing to consider the Application on November 29, 2007, pursuant to the provisions of 11 DCMR § 3022.
9. As preliminary matters prior to the public hearing, the Commission determined that Reverend Oliver Johnson did not qualify for party status because he was not likely to be more significantly, distinctively, or uniquely affected in character or kind by the proposed development than those of other persons in the general public and granted the request of the Applicant for a waiver of a posting requirement. There were no other requests for party status. The Advisory Neighborhood Commission (“ANC”) 8A, the ANC in which the Property is located, was automatically a party to the case.

10. At the November 29, 2007 public hearing, the Applicant presented its evidence including testimony and the presentation of plans, reports, and material samples. In response to the Applicant's request for designation of certain witnesses as experts, the Commission accepted Mutesh Asatoy of Computecture as an expert in architecture; Christopher L. Kabatt, P.E. of Wells & Associates as an expert in transportation; and John Heinrichs, P.E. of Phoenix Engineering, Inc. as an expert in civil engineering.
11. As discussed below, the Office of Planning ("OP"), numerous persons in support, and several persons in opposition testified at the public hearing.
12. On December 3, 2007, in response to requests made by the Commission at the public hearing, the Applicant submitted the following materials into the record and served them on OP and ANC 8A:
 - Revised architectural plans reflecting revisions to the plans as shown at the public hearing;
 - A revised landscape plan which corresponds with the revised architectural plans;
 - The Applicant's response to the D.C. Water and Sewer Authority's ("DCWASA") concern with the proposed development's location within a Low Service Area water pressure zone;
 - The Applicant's proposed transportation demand strategies;
 - The Applicant's response to concerns regarding precautionary measures the Applicant will take with regard to the protection of older structures located in Square 5560;
 - Memorandum of Understanding between Chapman Development and the Earth Conservation Corps ("Corps"), a youth development and environmental service organization, to engage twenty-five (25) Corps members on the 2300 Pennsylvania Avenue Project; and
 - Letter of Agreement from the Ward 8 Business Council to Chapman Development agreeing to work with the Applicant to provide coordination services to on-site businesses at the Property.
13. On January 22, 2008, the Applicant submitted a letter clarifying its commitments to construct a rainwater capture system into the PUD project's storm water management system, the courtyard as a green roof above the below grade parking garage, and an on-site business center on the ground floor of the PUD project.

PUD SITE AND SURROUNDING AREA

14. The Property includes approximately 31,500 square feet of land, and is located in the Fairlawn neighborhood approximately one-quarter mile from the John Philip Sousa Bridge. The Property is rectangular shaped and is bounded by Pennsylvania Avenue to the northeast; Prout Street to the northwest; an alleyway to the southeast; and an alleyway to the southwest.
15. The Property is currently improved with small deteriorating structures, a commercial garage, and parking lots. Commercial structures are located across Pennsylvania Avenue, S.E. from the Property and to the southeast, along Pennsylvania Avenue, S.E. The Fairlawn neighborhood, which includes a mix of single family homes and multi-family buildings, is situated south and southwest of Pennsylvania Avenue. Single family homes are located directly across the southwest alleyway from the Property.
16. The grade of the Property slopes from the south corner to the north corner.

DESCRIPTION OF THE PUD PROJECT

17. The PUD project creates a 118-unit multi-family residential apartment building with ground floor retail and a community center, along with underground parking and loading docks. The residential units will consist of 110 one-bedroom and eight two-bedroom units. A 6,428-square-foot courtyard will be landscaped and accessible to the residents of the building. The 8,290 square feet of ground floor retail space is oriented toward Pennsylvania Avenue. The community center will be available to the community for community meetings and as a business center for residents of the building.
18. The building will have a height of 59 feet six inches and a density of 3.135 floor area ratio ("FAR"). The residential dwelling units will be reserved for households making up to 60% of the Area Median Income ("AMI") for the Washington, D.C. Metropolitan Area.
19. The underground parking garage will provide 77 parking spaces. The first 18 parking spaces will be available for use by retail employees and customers, while the remaining 59 spaces will be reserved for residents. The loading facilities, which include a 30-foot loading berth and a 55-foot loading berth, will be accessible from Prout Street, S.E.
20. The building will include a mix of brick, siding, and trim. A five foot six inch tall brick architectural embellishment will crown the building on its northwest corner near the intersection of Pennsylvania Avenue and Prout Street, S.E.
21. The building will have a 15-foot side yard on the southeast side of the Property, adjacent to the southeast alleyway. The courtyard opens to the rear of the Property on the building's southwest side.

22. Although the Property is located within a Low Service Area water pressure zone, according to the testimony of the civil engineer and additional materials submitted for the record, the existing eight inch line in Pennsylvania Avenue, S.E. is connected to a 30-inch water transmission line in Prout Street, S.E. adjacent to the Property and such facilities should provide adequate volume even if the pressure is low. Furthermore, the Applicant will perform a fire hydrant flow test and if the test indicates that the pressure is too low for the proposed development, the Applicant will include low water pressure devices in the proposed building's mechanical room to increase the pressure inside the building to satisfactory levels.
23. The Applicant submitted the following transportation demand management strategies:
- Fifty-one bicycle parking spaces will be provided for residents of the building within the garage. "U" racks will also be provided outside for visitors and the retail.
 - An on-site Business Center will be provided for residents and will provide access to a copier, fax, and Internet service.
 - An agreement to post information regarding alternative transportation choices on the property management's website to include hotlinks to goDCgo.com and CommuterConnections.com. Transit information will also be provided to new residents upon move-in and displayed in the lobby of the building.
 - Transit subsidy in the form of a SmartTrip card with a value of \$20.00 will be provided to tenants who sign a one-year lease to encourage use of transit.
 - The Applicant will work with DDOT and a car-sharing company to locate an appropriate space on or around the property for car-sharing.
 - The property management company will provide a transportation demand management coordinator to implement transit strategies.

ZONING RELIEF REQUESTED

24. The PUD project requires relief from the lot occupancy, rear yard, loading, and floor area ratio requirements (§§ 403, 404, 2201.1, and 2405.2).

SATISFACTION OF PUD EVALUATION STANDARDS

25. Through written submissions and testimony to the Commission, the Applicant and its representatives noted that the PUD project will provide high-quality residential development on the Property with public benefits to the neighborhood and the District as a whole.

26. Urban Design and Architecture: The proposed building is designed to complement the architectural design of this area of the District, as well as introduce the mixed-use ground-floor retail model building to Pennsylvania Avenue, S.E., a style commonly seen in other areas of the District. The impact of 118 new residential units and ground-floor neighborhood-oriented retail at this location will set a design standard for this area and help to revive the Pennsylvania Avenue, S.E. thoroughfare by restoring its commercial significance and utility.
27. Site Planning: The Applicant noted that throughout the design review process it has sought to address the requests of the Commission, OP, and the community to reduce the size of the building and to orient the ground-floor retail along Pennsylvania Avenue, S.E. The proposed density of the project is appropriate for the Property. The amount of green space at the Property will be increased from 2,000 square feet to 8,000 square feet. This will result in approximately 20% of the Property dedicated to green space. The large courtyard opens on the rear of the building, lessening any impact to the residential dwellings across the southwest alleyway.
28. Effective and Safe Vehicular and Pedestrian Access: The access points for the loading dock and parking garage are located on Prout Street, S.E. The portions of the project facing the Pennsylvania Avenue and Prout Street, S.E. sidewalks have been designed to encourage pedestrian activity. The proposed development provides residents and retail patrons with 77 parking spaces.
29. The Applicant's traffic and parking expert provided written documentation that the study area roadway network currently operates near or at capacity during the morning and afternoon peak periods. All approaches at unsignalized intersections in the study area operate at Level of Service "D" or better during both peak hour periods. The traffic and parking expert noted that modifications to the existing signal timings at the Pennsylvania Avenue intersections with Minnesota Avenue SB and Minnesota Avenue NB/25th Street would improve overall vehicle delay during peak hours. Overall the intersections would operate a Level of Service "C" or "D" during the AM and PM peak hours with such modifications. The traffic expert found that the PUD project would add one second or less of overall delay to the signalized intersections of Pennsylvania Avenue and L'Enfant Square (Minnesota Avenue SB) and Pennsylvania Avenue and Minnesota Avenue NB/25th Street assuming the signal timing modifications suggested were implemented for background conditions. The unsignalized intersections would continue to operate at acceptable levels of service during the AM and PM peak hours. Based on these findings, the traffic and parking expert concluded that the subject development would have no objectionable impact on the public street network.
30. Housing: The PUD project will add 118 new workforce residential units to the Fairlawn neighborhood. The residential units will be reserved for households making up to 60% of AMI.

31. First Source Employment Program: The Applicant will enter into an agreement to participate in the Department of Employment Services (“DOES”) First Source Employment Program to promote and encourage the hiring of District of Columbia residents during the development and construction process.
32. Local, Small, and Disadvantaged Businesses: The Applicant will enter into a Memorandum of Agreement with the Department of Small and Local Business Development in an effort to utilize local, small, or disadvantaged business enterprises certified by the D.C. Local Business Opportunity Commission in the development of this project.

The Applicant has also formed a partnership with the Ward 8 Business Council (the “W8BC”). W8BC is a nonprofit organization that promotes and monitors Certified Business Enterprises (“CBEs”) in Ward 8. As a result of this partnership, a Ward 8 CBE Pre-Bidders Conference event was held on October 19, 2007, at which 40 Ward 8 CBEs attended. The purpose of the Pre-Bidders Conference was to engage this group early to ensure that Ward 8 businesses had needed information to qualify for contractual opportunities. Also as a result of this effort, the Applicant has started a series of workshops to provide information on issues including bonding, working with government to get paid on time, employment law, establishing relationships with big contractors, and A3 contracting.

33. Environmental Benefits: The PUD project includes a rainwater capture system as a way to reduce run-off into the storm water system. The PUD project also includes a courtyard to be a green roof above the below-grade parking garage that will collect rainwater to reduce storm water run-off and for watering on-site plantings, and to increase the amount of green space at the Property, so that approximately 20% of the property will be green space. As well, 51 bike parking spaces would also be included in the parking garage. The PUD project also includes an on-site business center available to residents, including a copier, fax, and internet service.
34. Comprehensive Plan: The PUD project is fully consistent with and fosters the goals and policies stated in the District Elements of the Comprehensive Plan for the National Capital (“Comprehensive Plan”). The District of Columbia Future Land Use Map recommends low-density commercial land use for the Property. The low-density category includes facilities for shopping, business, housing and mixed use needs.
35. The PUD project serves the goals of several of the citywide elements of the Comprehensive Plan:
 - Consistency with the Land Use Elements – The Applicant seeks to construct a new building in an area and a commercial corridor which is planned for revitalization by the District government. The block in which the proposed PUD is located is currently in bad repair. The new development will help to prompt

revitalization of the area, bringing vibrancy across the Anacostia River. The proposed design of the building will introduce a type of building design not commonly seen east of the River. Furthermore, the new building will also bring much desired retail to the neighborhood. Finally, the building will introduce 118 needed new workforce dwelling units to the community.

- Consistency with the Housing Element – The proposed project will introduce a new concentration of both retail and residential uses along the Pennsylvania Avenue, S.E., bringing energy to the neighborhood. The apartment house will provide amenities such as a business center for its tenants. A landscaped courtyard will also be open to all tenants for passive recreation.
 - Consistency with the Economic Development Element – The proposed project will establish new retail in the neighborhood along Pennsylvania Avenue, S.E., as sought by the community. As well, new retail is anticipated under the Corridor Land Development Plan for Pennsylvania Avenue S.E. in order to increase neighborhood livability and economic development along the corridor.
36. Compliance with Area Element - The PUD project also complies with priorities and policies of the Far Northeast and Southeast Area Elements of the revised Comprehensive Plan.
- Development of New Housing – The Comprehensive Plan seeks to “[e]ncourage new housing for area residents on vacant lots...on underutilized commercial sites along the area’s major avenues.” The construction of the project will redevelop the currently underutilized commercial sites along Pennsylvania Avenue, S.E.
 - Development of New Retail – The Comprehensive Plan also seeks to “[s]upport the revitalization of the neighborhood commercial areas with new businesses and activities that provide needed retail services to the adjacent neighborhoods and that are compatible with surrounding land uses.” Additionally, such plan notes that “[p]articular emphasis should be placed on upgrading the shopping area between Fairlawn Avenue and 28th Street SE.” The proposed project will initiate this revitalization process by providing neighborhood oriented retail and promoting a return of the commercial corridor to a walkable shopping street.
37. The Commission has the authority to approve an increase of not more than five percent of the density of the underlying zone district pursuant to § 2405.3, provided that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations. The PUD project has a density of 3.135 FAR and, therefore, requires additional relief pursuant to § 2405.3.
38. The increase in density will allow additional light and air to residential units located in the southeast corner of the building and produce an improved window pattern. The lot

occupancy, rear yard, loading and density flexibility requested by the Applicant will have no measurable impact on the surrounding properties. The Commission finds that the additional light and air together with the improved window pattern are essential to the successful functioning of the project and consistent with the evaluation standards of Chapter 24 of the Zoning Regulations.

GOVERNMENT REPORTS

39. In its November 19, 2007 report, OP recommended approval of the project. It also recommended consideration of certain transportation demand strategies. OP stated it believed that the proposal is consistent with the Comprehensive Plan. OP noted that the Property is classified as Commercial/Mixed-Use within a Main Street Mixed-Use Corridor on the Generalized Policy Map. OP also noted that the Future Land Use Map designates the area of the Property along Pennsylvania Avenue as low-density commercial, which defines shopping areas that are generally low-scale in character. OP found that the proposed ground-floor retail space is intended to serve the building's residents and surrounding neighborhood and is not inconsistent with this designation. OP noted that the redevelopment of the site will have an overall positive impact on the neighborhood and supports the District's Great Street Initiative for the Pennsylvania Avenue S.E. Corridor.
40. In its November 19, 2007 report, the District Department of Transportation ("DDOT") concurred with the observations and conclusions of the Applicant's parking and traffic expert that the traffic expected to be generated from the project will not significantly worsen the existing traffic condition.
41. In its November 9, 2007 report, DCWASA noted that the Property is a part of a Low Service Area water pressure zone and required the Applicant to submit results from a fire flow test in the 8-inch water main in Pennsylvania Avenue, S.E. in order for DCWASA to determine the ability of the water distribution system to provide adequate fire flows for the proposed development. DCWASA found the sanitary sewers in this area to be adequate to handle the expected sanitary flows for the proposed project. DCWASA found that the storm sewers in the area of the Property to be adequate to handle the expected storm flows for the proposed development.

ANC REPORT

42. ANC 8A supported the PUD project by letter dated October 31, 2007 and a resolution dated November 6, 2007. The ANC's resolution in support of the project noted the project as revised responded to issues and concerns raised by the community and ANC 8A regarding the height and density of the proposed building, as well as concerns with the exterior design of the building. Additionally, the resolution noted that the ANC is supportive of the residential and retail development as proposed by the Applicant.

PERSONS IN SUPPORT

43. Ashley Howard, a youth involved with the Environmental Corps; Thelma Jones, a resident of the Fairlawn neighborhood; Herman Barber, a Ward 8 Certified Business Enterprises business owner; James Bunn, a representative of the Ward 8 Business Council; and Freddie Winston, a Ward 8 Certified Business Enterprises business owner, testified in support of the project.

PERSONS IN OPPOSITION

44. Reverend Oliver Johnson, a resident of Nicholson Street, S.E., which property is located directly across the southwest alley from the Property, testified in opposition to the project. Reverend Johnson noted his concern for older structures located in the vicinity of the Property.
45. Marvin Thomas, a business owner currently located in a building at the Property who will be displaced by the proposed construction, testified in opposition to the project.
46. Laura Richards, a resident of the Penn Branch neighborhood, testified in opposition of the project and, particular, her opposition to the height and density of the proposed project. Ms. Richards noted that such a development is more suitable to a location near a Metro rail station.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project, “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider the application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested relief from the lot occupancy, rear yard, loading, and floor area ratio requirements, can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. 11 DCMR § 2403 provides the standards for evaluating a PUD application and 11 DCMR § 2403.9 provides categories of public benefits and project amenities for review by the Commission. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right

zoning. The instant application will achieve the goals of the PUD process by providing superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right project on the Property would provide. The Commission finds that the workforce residential units, the ground-floor retail and the community center are significant project amenities and exemplify superior features of urban design, architecture, and site planning. The Commission finds that the proposed low impact development proposed by the Applicant is an environmentally sensitive approach to development on the Property and is a public benefit and project amenity.

4. The project benefits and amenities are a reasonable trade-off for the zoning relief provided in the application. The use, height, bulk, and design are appropriate for the building.
5. The Commission agrees with the written submissions of the Applicant, as well as the recommendations of OP, that approval of the proposed project is not inconsistent with the Comprehensive Plan. The Commission finds that the PUD project is consistent with and fosters the goals of numerous citywide elements of the Comprehensive Plan, including: the Economic Development Element; Land Use Element; and Housing Element. The Commission also finds that the project furthers objectives and policies of the Far Northeast and Southeast Area Elements, including new housing and new retail.
6. The Applicant seeks an increase in density as permitted by 11 DCMR § 2405.3. The Applicant has met the burden of proof required by 11 DCMR § 2405.3 for approval of five percent bonus density, because the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations.
7. In accordance with D.C. Official Code § 1-309.10(d)(3)(A), the Commission must give great weight to the issues and concerns of the affected ANC. The Commission has carefully considered the ANC's recommendation for approval of the project and concurs in its recommendation.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations, as reflected in paragraph 39 above. For the reasons stated above, the Commission agrees with OP's recommendation for approval and concurs in its recommendation.
11. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
12. Notice of the public hearing was provided in accordance with the Zoning Regulations.

13. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
14. The Applicant is subject to compliance with the Human Rights Act of 1977 (D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq.).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for consolidated review of a planned unit development for 19, 20, 53, 54, 802, 803, 810, and 811 in Square 5560. The approval of this PUD is subject to the following guidelines, conditions, and standards of this Order:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 16, 18, and 60 of the record, as modified by the guidelines, conditions, and standards of this Order. To the extent minor modifications are needed to conform with D.C. laws and regulations with regard to the plans and materials, the Applicant is afforded the necessary flexibility to make such changes.
2. All of the residential units shall be reserved as workforce housing units, and will be affordable to households making no more than 60% of AMI.
3. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services in substantial conformance with the standard form First Source Agreement. A fully executed First Source Agreement shall be filed with the Office of Zoning and the Office of the Zoning Administrator prior to issuance of a building permit for the PUD project.
4. The Applicant shall enter into a Memorandum of Understanding with the Office of Local Business Development. A fully executed Memorandum of Understanding shall be filed with the Office of Zoning and the Office of the Zoning Administrator prior to the issuance of a building permit for the PUD Project.
5. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and bathrooms, provided that the variations do not change the exterior configuration of the structures;
 - To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and

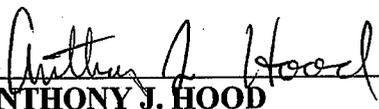
- To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
6. The consolidated PUD shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit and construction of the project must start within three (3) years of the effective date of this Order, pursuant to 11 DCMR §§ 2408.8 and 2408.9.
 7. No building permit shall be issued for the PUD project until the owner[s] of the Property have executed and recorded a covenant in the land records of the District of Columbia, between the owner[s] and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owners and all successors in title to constrict and use the Property in accordance with this Order, or amendment thereof by the Commission. The owners shall file a certified copy of the covenant with the records of the Office of Zoning.
 8. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.
 9. A rainwater capture system shall be included in the PUD project’s storm water management system.
 10. The courtyard of the PUD project shall be constructed as a green roof above the below grade parking garage.
 11. The on-site business center described in finding of fact paragraphs 23 and 33 shall be available to residents, and shall be located on the ground floor of the building.

12. The Applicant shall abide by the terms of the Development and Construction Management Plan submitted into the record at Exhibit 67.

On December 13, 2007, the Zoning Commission took proposed action to **APPROVE** the Application by a vote of **5-0-0** (Anthony J. Hood, Gregory N. Jeffries, Curtis L. Etherly, Jr., Peter G. May, and Michael G. Turnbull to approve).

On January 31, 2008, the Zoning Commission took final action to **ADOPT** the Application by a vote of **4-0-1** (Anthony J. Hood, Michael G. Turnbull, and Peter G. May to adopt; Curtis L. Etherly, Jr., to adopt by absentee ballot; Gregory N. Jeffries not present, not voting).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the D.C. Register on **MAR 14 2008** .



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JERRILY R. KRESS, AIA
DIRECTOR
OFFICE OF ZONING